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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,839

01/17/2006

Klaus Gunther

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DANVERS, MA 01923

EXAMINER

PHILOGENE, HAISSA

ART UNIT

PAPER NUMBER

2821

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/564,839	<b>Applicant(s)</b> GUNTHER ET AL.	
	<b>Examiner</b> Haissa Philogene	<b>Art Unit</b> 2821	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/17/06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/17/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show “sinusoidal current at a frequency which is in a frequency range above 30 kHz and which is free from acoustic resonances” (claim 1), “the frequency range is between two adjacent acoustic resonant frequencies” (claims 2 and 3); “...a first, higher power after starting...a second, lower power once steady-state operation...” (claim 4) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: In page 1, line 5, add --FIELD OF THE INVENTION--; lines 7-8, delete, "according to the preamble of patent claim 1". in page 2, lines 22-25, delete "this abject is achieved.....dependent patent claims". In page 8, change "Patent Claims" to --What is claimed is--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 are rejected under 35 U.S.C. 101 because claim which is intended to embrace both product and method is precluded by language of 35 USC 101, which sets forth statutory classes of invention in alternative only. Here, as the Applicant is claiming an operating method (see preamble of claim 1), no method steps were recited.

Claims 1-4 are also rejected under 35 U.S.C. 112, second paragraph, as being invalid, since claim which purports to be both product and method is ambiguous and

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therefore does not particularly point out and distinctly claim subject matter of the invention.

Claim 1 is also rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting an essential step of controlling the frequency of the lamp alternating current.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm et al., Patent No. 5,436,533, cited by Applicant, in view of Mita et al., Patent No. 6,710,551.

As per claim 1, Fromm discloses in Fig.3 an operating method for a high-pressure discharge lamp (1) having a light-permeable discharge vessel (2), which surrounds a discharge space having an essentially cylindrical geometry, in which electrodes (4, 5) and an ionizable filling are arranged for the purpose of generating a light-emitting gas discharge (see also Col.7, line 61-Col.8, line 2). Fromm does not disclose the lamp being operated using an essentially sinusoidal current at a frequency which is in a frequency range above 30 kHz and which is free from acoustic resonance. Mita discloses an operating method for a high-pressure discharge lamp (8) , said lamp being operated using an essentially sinusoidal current (see Fig.7) at a frequency (fA2 in

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Fig. 8) which is in a frequency range (20-100kHz) above 30 kHz and which is free from acoustic resonances (see Col.12, lines 23-25 and Col.4, lines 15-18). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the operated lamp as taught by Mita into the Fromm type system, because it would ensure a stable operation by preventing any acoustic resonances in the lamp.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm et al. in view of Mita et al. as applied to claim 1 above, and further in view of Kramer, Patent No. 6,400,100.

From in view of Mita discloses the claimed invention substantially as explained above except for the frequency range being two adjacent acoustic resonant frequencies or fundamental frequencies of acoustic resonances. Kramer discloses a lamp operating system having a lamp (14) being operated at a frequency which is in a frequency range (45 to 55 kHz) being two adjacent acoustic resonant frequencies, i.e., a first azimuth acoustic resonant frequency and a first radial acoustic resonant frequency (see Col.2, lines 24-28 and Col.4, lines 14-30). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the frequency range as taught by Kramer into the From in view of Mita type system, because it would ensure a stable lamp operation.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Holtslag, Patent No. 5,569,984; Hamaguchi et al., Patent No. 6,967,446;  
Siessegger, Pub. No. 2007/0138972.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 8:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Owens can be reached on (571)272-1662. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Haissa Philogene/  
Primary Examiner, Art Unit 2821

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